



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

April 16, 1996

Mr. C. Ed Davis  
Deputy Director of Legal Services  
Texas Department of Protective  
and Regulatory Services  
P.O. Box 149030, E-654  
Austin, Texas 78714-9030

OR96-0552

Dear Mr. Davis:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 39334.

The Texas Department of Protective and Regulatory Services (the "department") received an open records request for the following information pertaining to Odyssey Harbor Home in Tarrant County:

1. Copies of licensing inspection reports and Youth for Tomorrow monitoring reports dating back to December 1993;
2. Copies of adverse action against the facility since they began operation; [and]
3. Copies of serious incidents and complaints reports, since December 1993.

You state the department has released to the requestor all of the requested information except for those records that pertain to the department's investigations of child abuse or neglect alleged to have occurred at Odyssey Harbor Home. You contend these records are made confidential by section 261.201 of the Family Code and thus must be withheld from the public pursuant to section 552.101 of the Government Code.

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 261.201 of the Family Code provides:

The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

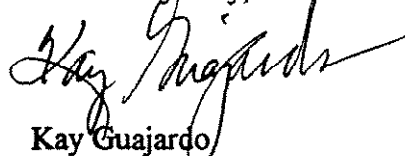
(1) a report of alleged or suspected abuse or neglect [of a child] made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

You characterize the records submitted to this office for review as coming within two general categories: 1) investigations of allegations of child abuse or neglect at Odyssey Harbor Home, and 2) records of violations of minimum licensing standards stemming from reports of child abuse or neglect. We agree that both categories of records are confidential under section 261.201 of the Family Code. *Cf.* Open Records Decision No. 587 (1991) (information maintained in licensure records of the Department of Human Services does not remove information from protection of predecessor statute of section 261.201). Consequently, the department must withhold the records submitted to this office pursuant to section 552.101 of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Guajardo  
Assistant Attorney General  
Open Records Division

KHG/RWP/ch

Ref.: ID# 39334

Enclosure: Submitted records

cc: Ms. Tanji Patton  
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(w/o enclosure)